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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,085	01/31/2001	Paul Frazier		6057

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EXAMINER

BAYAT, BRADLEY B

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/773,085	<b>Applicant(s)</b> FRAZIER, PAUL	
	<b>Examiner</b> Bradley B. Bayat	<b>Art Unit</b> 3621	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 12-15, 17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-15, 17 and 19-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of Claims***

This communication is in response to remarks and amendment filed on January 24, 2006. Claims 1-10, 12-15, 17 and 19-23 remain pending.

### ***Response to Arguments***

Applicant's arguments filed on 1/24/2006 have been fully considered but they are not persuasive.

Applicant distinguishes the cited art as failing to disclose gathering data from more than one type of data source (response p. 6-7). Applicant specifically states that Aarnio provides "no disclosure of two data sources being used. Id. Further, applicant contends that "Mannings discloses the use of telephones with DTMF functionality and Aarnio discloses the use of telephone or similar devices using sophisticated data transmission protocols. However neither reference teaches the use of two different data sources, including the routing of telephone responses and the Internet responses to single data bank." Id. Applicant argues that Aarnio only uses one kind of terminal, wherein applicant's invention uses both Internet and telephone responses (response p. 7).

On the contrary, Aarnio clearly describes a central device (2) receiving data from multiple data sources (terminal devices 1: telephone, PDA, computer or any device with means of making a data transmission; see column 3, lines 40) via various communication links. The invention can also be applied to GSM systems, WAP, SMS and HTTP for Internet communications (column 3, lines 24-67). Therefore, Aarnio terminal devices encompass both

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telephone responses and Internet responses (and any other data transmission device capable of transmission of data) to one central device or database (2).

Aarnio also discloses that just like ANI is used for telephone number identification, IP numbers are used for identification of Internet responders (column 5, lines 34-41). Therefore, as Aarnio teaches, identification of responders can be accomplished and repeat responses filtered whether the source of the data is the telephone or the Internet.

Therefore, applicant's remarks have failed to overcome the cited and for the foregoing reasons, the rejection is maintained and made FINAL.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-10, 12-15, 17 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mannings, US 6,324,266 B1 in view of Aarnio, US 6,873,688 B1.**

1. Mannings discloses a computerized data authorizing system for gathering data from a plurality of data sources, a method of compiling data comprising: inviting telephone responses as one data source to a data-gathering campaign (figure 1, reference 1); a telephone response path (figure 1, PBX/PSTN path); preventing duplicate telephone responses from reaching the single data bank (column 1, line 58-column 2, line 29; column 5, lines 1-13 and 29-46; column 6, lines

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38-43; figures 1-3 and associated text). Although Mannings discloses allowing for examination questions and answers “on-line”(column 3, lines 44-49), it does not explicitly disclose inviting Internet responses as part of a data collection campaign.

Aarnio, however, teaches a data collection and gathering method inviting various data sources to a data-gathering campaign (figure 1, computer terminal 1 devices); automatically routing the telephone responses and the Internet responses to a single data bank which is common to both (figure 1, central device/server) and an Internet response path (figure 1, computer terminal transmission connection 3), preventing duplicate Internet responses from reaching the single data bank (column 6, lines 30-46, IP number), wherein both internet and telephone responses are captured into a single data bank to analyze a campaign (column 6, lines 30-63; see also column 3, line 24-column 4, line 7, column 5, lines 34-57).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Mannings’ data gathering system to include various other data response sources as part of a data gathering campaign since with the emergence of wireless technology applicable in so many devices has provided an accessible and efficient way of polling and surveying consumers at anytime and from any location, as per teaching of Aarnio.

As per the following claims, Mannings further discloses:

2. The method defined in claim 1 further including a step of further processing non-duplicate responses (Mannings: column 6, lines 15-56; Aarnio: column 6, lines 30-46).

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3. The method defined in claim 2 wherein the step of further analyzing responses includes a step of selecting a response for special attention (Mannings: figure 3 and associated text; Aarnio: column 3, lines 9-17, column 5, line 58-column 6, line 5).

4. The method defined in claim 2 further including a step of merging telephone responses and Internet responses received in the data bank into a single merged data report (Mannings: figure 1 and associated text; Aarnio: figure 1, column 6, lines 6-21).

5. The method defined in claim 3 wherein the step of further analyzing responses includes a step of identifying a respondent associated with the selected response (Mannings: column 6, lines 15-43; Aarnio: column 6, lines 33-35).

6. The method defined in claim 5 wherein the step of further analyzing responses includes a step of notifying the identified respondent (Mannings: column 6, lines 63-67; Aarnio: column 6, lines 40-43).

7. The method defined in claim 6 wherein the step of further analyzing responses includes a step of notifying a non-selected respondent that their response has not been selected for special attention (Mannings: column 7, lines 5-10; Aarnio: column 6, lines 40-43).

8. The method defined in claim 7 wherein the telephone response is via a toll-free number (Mannings: column 1, lines 40-58; column 3, lines 20-25; column 6, lines 22-23).

9. The method defined in claim 1 wherein the step of using the single data bank to analyze a campaign includes steps of analyzing respondent profiles and information including name and address (Mannings: figure 3 and associated text; column 4, lines 15-19; Aarnio: column 3, line 60-column 4, line 7).

10. The method defined in claim 6 wherein the step of further analyzing responses includes a step of notifying the respondent via the path used by the respondent to accept the invitation (Mannings: column 6, lines 44-56; Aarnio: column 4, lines 30-38, column 5, line 58-column 6, line 5).

12. The method defined in claim 1 further including a step of identifying the number of Internet responses (Mannings: column 5, lines 57-64; figure 3 and associated text; Aarnio: column 3, line 60-column 4, line 7).

13. The method defined in claim 1 wherein the step of preventing duplicate responses includes notifying a respondent associated with a duplicate entry of the prevention step being taken (Mannings: column 6, line 54-column 7, line 10; Aarnio: column 5, lines 50-57, column 6, lines 30-46).

14. The method defined in claim 1 wherein the step of further analyzing responses includes a step of capturing HTML and sending HTML to a browser (Mannings: column 5, lines 29-46;

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column 7, lines 11-31; Aarnio: column 3, lines 41-67, column 6, lines 22-29).

15. The method defined in claim 13 further including a step of notifying a respondent associated with a duplicate response when a response from that respondent will be accepted (Mannings: column 6, line 63-column 7, line 10; Aarnio: column 5, lines 50-57).

17. The method defined in claim 7 wherein the step of further analyzing responses includes a step of notifying a non-selected respondent when another response will be accepted from that non-selected respondent (Mannings: column 7, line 49-column 8, line 18; Aarnio: column 5, lines 50-column 6, line 5).

19. The method defined in claim 1 wherein the step of routing telephone responses includes automatic number identification steps (Mannings: column 3, lines 44-56).

20. The method defined in claim 17 wherein the step of routing Internet responses includes automatic number identification steps (Mannings: column 5, lines 14-67; Aarnio: column 5, line 34-column 6, line 35).

21. The method defined in claim 1 further including a step of entering a UPC associated with a response into the database (Mannings: column 4, lines 24-26).

22. The method defined in claim 1 further including entering a UPC associated with a response



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into a single database (Mannings: column 4, lines 20-37).

23. The method defined in claim 22, further including a step of checking the validity of each UPC entered into the single data bank as it is entered and notifying a respondent if the UPC is not valid (Mannings: column 1, line 59-column 2, line 65; column 4, lines 24-26).

*Although the Examiner has pointed out particular references contained in the prior art(s) of record in the body of this action, the specified citations are merely representative of the teachings in the art as applied to the specific limitations within the individual claim. Since other passages and figures may apply to the claimed invention as well, it is respectfully requested that the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.*

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- US 6,223,291 B1 to Puhl et al.
- US 4,689,619 to O'Brien, Jr.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley B. Bayat whose telephone number is 571-272-6704. The examiner can normally be reached on Tuesday - Friday 8 a.m.-6:30 p.m. and by email: bradley.bayat@uspto.gov. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached regarding urgent matters at 571-272-6712.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Or faxed to:

**(571) 273-8300** - Official communications; including After Final responses.

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(571) 273-6704 - Informal/Draft communications to the examiner.

*Daniel R. Smith*  
PRIMARY EXAMINER